



Briefing Paper

Agenda Item 11

Date: August 15, 2024
Prepared for: OMBC Members
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Subject: Enforcement Program Updates

Purpose: Update on Enforcement Program

Attachments: [11\(a\) Enforcement and Probation Performance Measures Q1, Q2, Q3, Q4-FY 2023-2024](#)

Background:

This is a report on the updates involving the Board's Enforcement Unit for the first, second, third, and fourth quarter of FY 2023-2024.

Please also refer to attachment 11(a), which encompasses the Enforcement Program statistics.

Analysis:

Effective July 1st, 2024, the enforcement unit was granted two Associate Governmental Program Analysts (AGPA) positions through the legislative budget change proposal pursuant to SB 815. Which means that the unit will soon have five (5) fulltime enforcement analysts in addition to one (1) fulltime probation monitor and one (1) fulltime complaint intake analyst for a total of 7 analysts. As previously stated, the unit previously implemented the impact statements and soon will implement the rest of the mandated requirements of SB 815.

The unit is excelling, enforcement staff continue to receive training in all areas of the enforcement process and the unit continues getting stronger. As previously reported each analyst is doing what is called cradle to grave. They conduct their own desk investigations, refer cases to the field, execute their own administrative citations, offer their own pre accusation public letter of reprimands, refer their own cases to the Office of Attorney General (AGO), and subsequently file their own disciplinary orders. To help keep staff on track the analyst continue to receive individualized pending reports, which highlight high priority and short statute of limitation cases. In addition to

receiving these reports, the unit continues to conduct weekly enforcement roundtable meetings.

In terms of communication with our stakeholders, the unit continues to meet monthly with HQIU and the Attorney General's Office, and legal counsel as needed.

Board Program Statistics:

For statistics, please refer to attachment 11(a) which covers the Enforcement Program's Q1, Q2, Q3 and Q4 statistics for fiscal year 2023-2024. Performance Measure 1 (PM1) covers the amount of consumer complaints and arrests and convictions received in comparison to last year. The unit did experience a significant increase of 28% in consumer complaints. One of the reasons for this increase is because enforcement is now initiating cases for all applicant files that require enforcement review, whereas before cases were not being initiated. It is important that we keep track of these cases and keep track of these statistics for workload analysis. The unit did see a decrease of about 37% in arrest and conviction cases, bringing the total number of complaints received to an overall increase of 25% in comparison to last fiscal year.

Performance Measure 2 (PM2) is the average number of days it takes for our analysts to initiate our enforcement complaints and acknowledge receipt. The target for this performance measure is ten (10) days and we continue to be well under the target at a three (3) day average for the past four quarters, a 50% reduction from last year.

Performance Measure 3 (PM3) is the average number of days it takes to complete investigations and enforcement action for cases not referred to the Attorney General's Office. Case aging here fluctuates greatly because it takes an average of all cases, and one or two very complicated cases can skew these numbers drastically. These numbers

include the timeline for desk and DOI's Health Quality Investigation Unit (HQIU) investigations. The target for PM3 is 360 days and as you can see, we are at about 208 days. One significant number to point out in this performance measure is that because cases are being initiated faster such cases are making their way to a desk investigation faster as well, this is illustrated with a decrease of 67% in PM3a.

Performance Measure 4 (PM4) is the average number of days it takes to complete investigations and enforcement actions that are transmitted to the Attorney General's Office for formal action. Case aging in this category had a slight increase of about 15% in comparison to last year. As previously reported, this is due to the increase of cases being referred to the AG's office. This is illustrated with an 18% increase in volume in PM4.

So far, this fiscal year, the Board is well under its performance measure targets for three (3) of its categories which is amazing. PM4 is the measure that unfortunately the Board has less control over as this measure takes into consideration the timeline from the Attorney General's Office, respondent's legal representatives, and the Office of Administrative Hearings.

The Board currently has 409 pending enforcement cases (an average of 102 cases per enforcement analyst), 64 of those are pending at HQIU and 18 at the Attorney General's Office. The unit is hopeful that with the addition of two additional analyst the enforcement caseload will decrease to a more reasonable number which in turn will result in more expeditious review and fast consumer protection.

Year to date the Board has filed thirteen (13) accusations or amended accusations, one (1) accusation and petition to revoke probation, eight (8) citations, eleven (11) public reprimands or public letter of reprimands, eleven (11) decision orders with probation, one (1) surrender, and two (2) revocations. Overall, enforcement continues to take more action in comparison to last year.

Action Requested: No Action Required